

FIFTY-EIGHTH DAY

WEDNESDAY, APRIL 23, 1997

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Moncrief, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend Richard E. Tankerson, Bethel African Methodist Episcopal Church, San Antonio, offered the invocation as follows:

O Lord, our heavenly Father, who from Your throne beholds all the dwellers upon the Earth, especially the beloved State of Texas, we heartily beseech You on behalf of the Governor of this great state, that he might always be inclined to accomplish Your will and walk in Your way. We call upon You, dear Father, to lead and instruct the leader of this august body and all the state Senators whose decisions have far-reaching implications for us all. Bless them all so that the application of their awesome power and authority might be dedicated to the advancement of Your glory and to the safety, honor, and general welfare of the beautiful citizens of Texas. Fix it, Lord, so that all things may be so ordered and settled by their endeavors upon the best and surest foundations that peace, happiness, truth, and justice might be established among us for all generations. Bring the business of this Senate under Your personal scrutiny so that all who share in the processes of this chamber might become conscious of a divine calling to devote their collective strength to the advancement of the common good. Through Your wonderful and glorious name we ask it all. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 55

On motion of Senator Zaffirini and by unanimous consent, Senator West will be shown as Co-author of **SB 55**.

CO-AUTHOR OF SENATE BILL 587

On motion of Senator Barrientos and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 587**.

CO-AUTHOR OF SENATE BILL 1335

On motion of Senator Ellis and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1335**.

CO-AUTHOR OF SENATE BILL 1697

On motion of Senator Ellis and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1697**.

CO-AUTHOR OF SENATE BILL 1923

On motion of Senator Ratliff and by unanimous consent, Senator Shapiro will be shown as Co-author of **SB 1923**.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
April 22, 1997

TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS for a term to expire January 31, 2003:

JAMES AMADOR DAROSS
4809 Costa De Oro Road
El Paso, Texas 79922

Mr. Daross will be replacing Walter Martinez of San Antonio whose term expired.

TO BE A MEMBER OF THE TEXAS TRANSPORTATION COMMISSION
for a term to expire February 1, 2003:

ROBERT LEE NICHOLS
1555 Canada
Jacksonville, Texas 75766

Mr. Nichols will be replacing David Bernsen of Beaumont whose term expired.

Respectfully submitted,

/s/George W. Bush
Governor of Texas

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

Senator Truan was recognized and announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

CAPITOL PHYSICIAN

Senator Haywood was recognized and presented Dr. D. Brett Mitchell of Denison as the "Doctor for the Day."

The Senate welcomed Dr. Mitchell and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Wednesday, April 23, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 32, Relating to primary election dates and procedures and related dates, deadlines, and procedures.

HB 196, Relating to the issuance of a contact lens prescription and a patient's right of access to that prescription; providing penalties.

HB 1012, Relating to the appointment of an environmental health officer in a home-rule municipality.

HB 1112, Relating to certain hearings concerning the revocation of the release status of persons under the supervision of the pardons and paroles division of the Texas Department of Criminal Justice and the housing of those persons pending the hearings.

HB 1180, Relating to a limitation of liability of a licensed installer or servicer of a liquefied petroleum gas system in a motor vehicle.

HB 1200, Relating to the period of validity of and fees for a driver's license, learner's permit, or personal identification certificate.

HB 1204, Relating to credit in and benefits from certain municipal retirement systems for police officers.

HB 1428, Relating to the creation and operation of a commission to coordinate the celebration of the centennial of the discovery of the Spindletop Oil Field.

HB 1548, Relating to tuition and fees for certain students registered in a public junior college.

HB 1901, Relating to certain sanctions imposed by the commissioner of insurance.

HB 1902, Relating to administrative procedures for certain orders and decisions of the Texas Department of Insurance.

HB 2073, Relating to the continuation and functions of the Texas Juvenile Probation Commission.

HB 2227, Relating to additional periods of possession or access to a child.

HB 2827, Relating to procedures applicable to an investigation involving the death of an inmate in the custody of the Texas Department of Criminal Justice or imprisoned in a facility operated by or under contract with the department.

HB 2919, Relating to the powers and the board of directors of the Lower Neches Valley Authority.

HB 3366, Relating to the authority of the General Services Commission to sell or dispose of real property.

HB 3367, Relating to state buildings and to the authority of the General Services Commission to obtain title to and retain control of certain property located outside of Austin.

SB 1060, Relating to the management of certain funds by the Veterans' Land Board, to the creation of veterans homes, and to the Veterans' Land Board's entering into bond enhancement agreements for certain bonds.
(Amended)

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

(Senator Fraser in Chair)

BILLS AND RESOLUTION SIGNED

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

SB 192, SB 251, SB 407, SB 454, SB 463, SB 544, SB 797, SB 872, SB 974, SB 1083, SB 1173, SCR 73

SENATE BILL 263 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 263** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 263** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the creation of an appellate judicial system for the Fourth Court of Appeals District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 22, Government Code, is amended by adding Section 22.2051 to read as follows:

Sec. 22.2051. APPELLATE JUDICIAL SYSTEM. (a) The commissioners court of each county in the Fourth Court of Appeals District, by order entered in its minutes, shall establish an appellate judicial system to:

(1) assist the court of appeals for the county in the processing of appeals filed with the court of appeals from the county courts, county courts at law, probate courts, and district courts; and

(2) defray costs and expenses incurred by the county under Section 22.205.

(b) To fund the system, the commissioners court shall set a court costs fee of not more than \$5 for each civil suit filed in county court, county court at law, probate court, or district court in the county. The commissioners court shall reduce the amount of the court costs fee by 50 cents for each \$100,000 of special appropriations made by the legislature each fiscal biennium for the specific purpose of reducing the amount of the court costs fee established under this section.

(c) The court costs fee does not apply to a suit filed by the county or to a suit for delinquent taxes.

(d) The court costs fee shall be taxed, collected, and paid as other court costs in a suit. The clerk of the court shall collect the court costs fee set under this section and pay it to the county officer who performs the county treasurer's functions. That officer shall deposit the fee in a separate appellate judicial system fund. The commissioners court shall administer the fund to establish and maintain a fund system to assist the court of appeals in the district. The fund may not be used for any other purpose.

(e) The commissioners court shall monthly order the funds collected under this section to be forwarded to the court of appeals for expenditure by the court of appeals for its judicial system.

(f) The commissioners court shall vest management of the system in the chief justice of the court of appeals.

SECTION 2. This Act takes effect September 1, 1997.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Zaffirini moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 263** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Zaffirini, Chair; Ratliff, Truan, Brown, and Moncrief.

(President in Chair)

SENATE BILL 422 WITH HOUSE AMENDMENTS

Senator Cain called **SB 422** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **SB 422**, SECTION 1, Sec. 241.003(2) as follows:

Insert the word "comprehensive" between the words "providing" and "medical".

Amend SECTION 3 of **SB 422** by amending Section 241.026(c), Health and Safety Code, to read as follows:

(c) Upon the recommendation of the hospital licensing director and the council, the board by order may waive or modify the requirement of a particular provision of this Act or minimum standard adopted by board rule under this section to ~~[a particular special hospital or]~~ a particular general or special hospital ~~[serving a rural community]~~ if the board determines that the waiver or modification will facilitate the creation or operation of the hospital and that the waiver or modification is in the best interests of the individuals served or to be served by the hospital.

Amendment No. 2

Amend **SB 422** by deleting all of Section 2, on page 4, lines 16-19, and renumbering sections that follow accordingly.

The amendments were read.

Senator Cain moved to concur in the House amendments to **SB 422**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 415 WITH HOUSE AMENDMENT

Senator Brown called **SB 415** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 415** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to associate judges appointed by the district courts and county courts at law of Fort Bend County.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 54, Government Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. CIVIL, JUVENILE, AND CRIMINAL LAW
ASSOCIATE JUDGES IN FORT BEND COUNTY

Sec. 54.1001. APPOINTMENT. (a) A majority of the judges of the district courts and the statutory county courts at law in Fort Bend County may determine that one or more full-time or part-time associate judges are needed to serve those courts.

(b) The judges shall issue an order reflecting that determination and specifying the number of associate judges and support staff needed.

(c) Subject to the determination of need by the district courts and statutory county courts at law and the approval of the commissioners court of the county, each judge may appoint one or more associate judges and support staff to serve the judge's court.

(d) Judges may act together to appoint associate judges to serve their courts.

Sec. 54.1002. QUALIFICATIONS. To be eligible for appointment as an associate judge, a person must:

(1) be a resident of this state; and

(2) have been licensed to practice law in this state for at least four years.

Sec. 54.1003. ORDER OF APPOINTMENT. The order appointing an associate judge must be entered in the minutes of each court making the order and must state:

(1) the associate judge's name and state bar identification number;

(2) the name of each court the associate judge will serve; and

(3) the date the associate judge's service is to begin.

Sec. 54.1004. COMPENSATION. The commissioners court shall set the compensation for associate judges and support staff and determine the total amount the county will pay as compensation for associate judges and support staff.

Sec. 54.1005. JUDICIAL IMMUNITY. An associate judge appointed under this subchapter has the same judicial immunity as the district court and statutory county court at law judges.

Sec. 54.1006. TERMINATION OF EMPLOYMENT. (a) An associate judge who serves a single court serves at the will of the judge of that court.

(b) The employment of an associate judge who serves two courts may be terminated by either of the judges of those courts.

(c) The employment of an associate judge who serves more than two courts may be terminated by a majority of the judges of those courts.

(d) To terminate an associate judge's employment, the appropriate judges must sign a written order of termination. The order must state:

- (1) the associate judge's name and state bar identification number;
- (2) the name of the court ordering the termination; and
- (3) the date the associate judge's services end.

Sec. 54.1007. WITHDRAWAL OF APPOINTMENT FOR PARTICULAR COURT. The judge of a court for which an associate judge has been appointed may withdraw the associate judge's appointment to that court by written order. The order must state:

- (1) the associate judge's name and state bar identification number;
- (2) the name of the court ordering the withdrawal; and
- (3) the date the associate judge's services end as to that court.

Sec. 54.1008. PROCEEDINGS THAT MAY BE REFERRED. (a) A judge may refer to an associate judge any criminal case for proceedings involving:

- (1) a negotiated plea of guilty before the court;
- (2) a bond forfeiture;
- (3) a pretrial motion;
- (4) a postconviction writ of habeas corpus;
- (5) an examining trial; and
- (6) any other matter the judge considers necessary and proper.

(b) An associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

Sec. 54.1009. CASES THAT MAY BE REFERRED. (a) A judge may refer to an associate judge any juvenile, probate, or civil case or portion of one of those cases brought:

- (1) under Title 1, 2, 3, 4, or 5, Family Code;
- (2) in connection with Rule 308a, Texas Rules of Civil Procedure;
- (3) in connection with Title 7, Health and Safety Code; or
- (4) under the civil jurisdiction of the appointing court.

(b) An associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.

Sec. 54.1010. METHOD OF REFERRAL. A case may be referred as prescribed by published local rules or by written orders.

Sec. 54.1011. DUTIES AND POWERS. (a) Except as limited by an order of referral, an associate judge to whom a case is referred may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) rule on a pretrial motion;
- (11) recommend the rulings, orders, or judgment to be made in

a case;

- (12) regulate proceedings in a hearing; and
- (13) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(b) An associate judge may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending

criminal prosecution or civil case, but the associate judge may make findings, conclusions, and recommendations on those issues.

(c) An order of referral may limit the use or power of an associate judge.

(d) Unless limited by published local rule, by written order, or by an order of referral, an associate judge may perform all acts and take all measures necessary and proper to perform the tasks assigned in a referral.

(e) An associate judge may administer oaths.

(f) An associate judge has the jurisdiction provided by the constitution and laws of this state for magistrates and is a magistrate as defined by Article 2.09, Code of Criminal Procedure.

Sec. 54.1012. JURY. (a) Except as provided by Subsection (b), if a jury trial is demanded in a case referred to an associate judge, the associate judge shall refer the case back to the referring court for a full hearing according to the usual rules applicable to the case.

(b) A jury demand does not affect the authority of an associate judge to handle pretrial matters referred to the associate judge.

Sec. 54.1013. COURT REPORTER. (a) A court reporter need not be provided during a hearing conducted by an associate judge.

(b) Notwithstanding Subsection (a), a referring judge may require a reporter at any hearing.

Sec. 54.1014. FAILURE TO COMPLY WITH SUMMONS OR OATH. If an attorney, party, witness, or any other person fails to comply with a summons or order, the associate judge may certify in writing that failure to the referring court for appropriate action.

Sec. 54.1015. PERJURY. (a) A witness appearing before an associate judge is subject to the penalties of perjury as provided by Chapter 37, Penal Code.

(b) A witness referred to the court under Section 54.1014 is subject to the same penalties and orders that may be imposed on a witness appearing in a hearing before the court.

Sec. 54.1016. RETURN TO REFERRING COURT; FINDINGS. At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

Sec. 54.1017. NOTICE OF RIGHT TO APPEAL. (a) Notice of right to appeal to the judge of the referring court shall be given to all parties.

(b) The notice may be given:

(1) by oral statement in open court; or

(2) by posting inside or outside the courtroom of the referring court.

Sec. 54.1018. APPEAL TO REFERRING COURT. (a) A party may appeal an associate judge's report by filing a notice of appeal not later than the sixth day after the date the associate judge submits his report to the referring court under Section 54.1016.

(b) An appeal to the referring court must be filed with the court clerk and must specify in writing the findings of the associate judge to which the party objects.

(c) Notice of an appeal to the referring court shall be given to all opposing parties or their counsel under Rule 21a, Texas Rules of Civil Procedure.

(d) If an appeal to the referring court is filed by a party, any other party may file a response to the appeal not later than the seventh day after the date the initial appeal was filed.

(e) The referring court, after notice to the parties, may conduct a hearing de novo on the issues raised in the appeal not later than the 30th day after the date on which the initial appeal was filed with the referring court.

Sec. 54.1019. COURT ACTION ON REPORT. (a) After the court receives the associate judge's report, or in the case of an appeal under Section 54.1018, after the court has decided the appeal, the court may adopt, modify, correct, reject, or reverse the associate judge's report or may recommit it for further information, as the court determines to be proper and necessary in each case.

(b) If a judgment has been recommended, the court may approve the recommendation and hear more evidence before making its judgment.

Sec. 54.1020. DECREE OR JUDGMENT. The finding and recommendations become the decree or judgment of the court when adopted and approved by an order of the judge.

Sec. 54.1021. MASTER IN CHANCERY. This subchapter does not prohibit a court from appointing a master in chancery as provided by Rule 171, Texas Rules of Civil Procedure.

Sec. 54.1022. REFEREES. (a) An associate judge appointed under this subchapter may serve as a referee as provided by Sections 51.04(g) and 54.10, Family Code.

(b) A referee appointed under Section 51.04(g), Family Code, may be appointed to serve as an associate judge under this subchapter.

(c) An associate judge appointed under this subchapter may serve as a master as provided by Section 574.0085, Health and Safety Code.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Brown moved to concur in the House amendment to **SB 415**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 553 WITH HOUSE AMENDMENT

Senator Brown called **SB 553** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **SB 553** as follows:

In Section 1, on page 1, line 7, replace "Matagorda, Brazoria, and Harris" with "Matagorda and Brazoria".

The amendment was read.

Senator Brown moved to concur in the House amendment to **SB 553**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 243 WITH HOUSE AMENDMENT

Senator Harris called **SB 243** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 243** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to liability of a parent for property damage to a hotel caused by a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 41, Family Code, is amended by adding Section 41.0025 to read as follows:

Sec. 41.0025. LIABILITY FOR PROPERTY DAMAGE TO AN INN OR HOTEL. (a) Notwithstanding Section 41.002, recovery of damages by an inn or hotel for wilful and malicious conduct is limited to actual damages, not to exceed \$25,000 per occurrence, plus court costs and reasonable attorney's fees.

(b) In this section "occurrence" means one incident on a single day in one hotel room. The term does not include incidents in separate rooms or incidents that occur on different days.

SECTION 2. This Act takes effect September 1, 1997, and applies only to property damage that occurs on or after that date. Damage that occurs before the effective date of this Act is governed by the law in effect on the date the damage occurred, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Harris, the Senate concurred in the House amendment to **SB 243** by a viva voce vote.

SENATE BILL 92 WITH HOUSE AMENDMENT

Senator Patterson called **SB 92** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 92** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the authority of the Bayview Municipal Utility District of Galveston County to install and assess for street lighting.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 245, Acts of the 58th Legislature, Regular Session, 1963 (Article 8280-287, Vernon's Texas Civil Statutes), is amended by adding Section 2A to read as follows:

Sec. 2A. (a) After voter approval, the District may:

(1) install, operate, and maintain street lighting within a public utility easement or public right-of-way inside the District's boundaries; and

(2) assess the cost of installing, operating, and maintaining the street lighting as an additional charge in the monthly billings of the District's customers.

(b) This section does not authorize the District to install, operate, or maintain street lighting on a right-of-way that is part of the designated state highway system.

SECTION 2. This Act takes effect September 1, 1997.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Patterson, the Senate concurred in the House amendment to **SB 92** by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 84 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 84, Relating to the licensure and regulation of nursing facility administrators; providing penalties.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 84** on page 6, line 12, by inserting the following between "care" and "and":

related to an act or failure to act by the administrator.

The amendment was read and was adopted by a viva voce vote.

CSSB 84 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 84 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 84** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

CSSB 84 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 1253 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1253, Relating to protective orders for family violence.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1253 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1253** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1253 was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

SENATE RESOLUTION 540

Senator Ogden offered the following resolution:

WHEREAS, On April 23, 1997, Washington County Day will be celebrated by the proud citizens of that illustrious county in recognition of the area's many significant contributions to the State of Texas; and

WHEREAS, Located in southeast Central Texas, Washington County has an area of 611 square miles drained principally by the Brazos River, and its picturesque rolling terrain includes the prairie and post oak belts; and

WHEREAS, The county was created in 1836 and organized the following year and is renowned as the location of Washington-on-the-Brazos, which was established in 1834 near the location of a ferry that had been continuously operated on the Brazos River since 1822; a "must see" for Texas history buffs, Washington-on-the-Brazos achieved prominence during the Texas Revolution as the site of the signing of the Texas Declaration of Independence and the drafting of the constitution of the newly born Republic of Texas; and

WHEREAS, Modern-day Washington County boasts a thriving economy based primarily on manufacturing, agriculture, and agribusiness, as well as a flourishing tourism industry; and

WHEREAS, The county seat of Brenham is home to the celebrated Blue Bell Creameries, whose ice cream has delighted Texans for generations, and Blinn Junior College, home of the back-to-back National Football Championship team the Buccaneers; and

WHEREAS, Washington County has many stellar attractions to offer both tourists and residents alike; Somerville Lake provides some of the finest hunting and fishing to be found in the state today, and colorful bluebonnet trails dot the highways and byways during the springtime; and

WHEREAS, A number of the state's most unique and enjoyable festivals also take place in Washington County; the Washington County Fair is the oldest county fair in Texas, and the town of Chappell Hill hosts the popular Bluebonnet Festival in the spring and Scarecrow Festival each fall; and

WHEREAS, Other notable celebrations occurring in Washington County include the Burton Cotton Gin Festival and Brenham's Maifest, an annual event honoring the area's proud German heritage; and

WHEREAS, Washington County has long been regarded as a hotbed of athletic excellence in the sport of baseball, and the exceptional success of local players has inspired many other area athletes into taking up the bat and glove; and

WHEREAS, Adding to the rich cultural heritage of the area are Washington-on-the-Brazos State Park, the Texas Baptist Historical Museum, the Star of the Republic Museum, and the Brenham Heritage Museum, as well as many other notable historic sites; and

WHEREAS, Preeminent among the county's finest assets are its friendly and hospitable citizens, who have gone to great lengths to make this lovely region a county that they are proud to call home; and

WHEREAS, Renowned for Blue Bell, baseball, bluebonnets, bed and breakfasts, and the Birthplace of Texas, Washington County is truly one of the state's most outstanding counties, and the efforts of its residents in preserving its unique beauty and heritage truly merit special praise and recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 75th Legislature, hereby designate April 23, 1997, Washington County Day and offer sincere best wishes to the county's fine citizens for a memorable and joyous celebration; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for Washington County as a memento of this special day.

The resolution was read.

On motion of Senator Brown and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Ogden, the resolution was adopted by a viva voce vote.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate Dorothy Morgan, Washington County Judge; Dr. Don Voelter, President, Blinn College; Walter Schwartz, Mayor, Brenham; Virginia Collier, Superintendent, Brenham Independent School District; Sue Muzzy, former State Representative; and a delegation of citizens from Washington County.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 1403 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1403, Relating to the establishment and funding of a blindness education, screening, and treatment program.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Floor Amendment No. 1

1) Amend **CSSB 1403** by adding the following between "The" and "program" on page 1, line 22:

agency shall implement the program only to the extent that funds are available pursuant to Section 521.421(f), Transportation Code. The

2) Amend **CSSB 1403** by adding the following between "Code" and "." on page 1, line 36:

, if the person applying for or renewing a license opts to pay the additional fee

The amendment was read and was adopted by a viva voce vote.

CSSB 1403 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1403 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1403** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1403 was read third time and was passed by a viva voce vote.

SENATE BILL 1739 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1739, Relating to the listing on an ad valorem tax appraisal roll of certain possessory interests in exempt property.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1739 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1739** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1739 was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate Dr. Nana Ohene Darko, President/Chief Executive Officer, World African Chamber of Commerce; Dr. Nadine Jenkins, Assistant Provost, The University of Texas at Arlington, and Director, Africa International Program; DeVoyd Jennings, Chair, Texas African American Chambers of Commerce; Joe Morin, President, Texas Association of Mexican American Chambers of Commerce; and Jim Wyatt, President, and Mary Miksa, Senior Vice-president, Chamber Relations, Texas Association of Business and Chambers of Commerce.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
SENATE BILL 1613 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1613, Relating to the administration of property taxation; providing a criminal penalty.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1613 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1613** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1613 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1568 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1568, Relating to a retirement health trust for firefighters and police officers of certain municipalities.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1568 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1568** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

(President in Chair)

CSSB 1568 was read third time and was passed by a viva voce vote.

SENATE BILL 1688 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1688, Relating to a preference given to bidders who hire recipients of financial assistance and services.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1688** in SECTION 1 of the bill, in proposed Section 2155.449(a), Government Code (page 1, line 19), strike "six" and substitute "four".

The committee amendment was read and was adopted by a viva voce vote.

SB 1688 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1688 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1688** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1688 was read third time and was passed by a viva voce vote.

(Senator Gallegos in Chair)

SENATE BILL 559 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 559, Relating to the suspension of the driver's license of a minor for certain conduct.

The bill was read second time and was passed to engrossment by a viva voce vote.

(President in Chair)

SENATE BILL 559 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 559** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 559 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1843 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1843, Relating to authorizing certain public entities to join together to finance, construct, acquire, operate, and maintain public facilities; authorizing the issuance of bonds and granting the power of eminent domain.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1843 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1843** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1843 was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Nelson in Chair)

HOUSE BILL 1300 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1300, Relating to the provision of certain software to persons who access the Internet; providing a civil penalty.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1300** as follows:

1) In **SECTION 1** of the bill, strike the existing Section 35.103, Business & Commerce Code, and substitute the following:

Sec. 35.103. CIVIL PENALTY. (a) A person is liable to the state for a civil penalty of \$2,000 for each day on which the person provides an interactive computer service for a fee but fails to provide a link to software as

required by Section 35.102. The aggregate civil penalty may not exceed \$60,000.

(b) The attorney general may institute a suit to recover the civil penalty. Before filing suit, the attorney general shall give the person notice of the person's noncompliance and liability for a civil penalty. If the person complies with the requirements of Section 35.102 not later than the 30th day after the date of the notice, the violation is considered cured and the person is not liable for the civil penalty.

- 2) On page 1, line 32, after "SOFTWARE", insert "OR SERVICES".
- 3) On page 1, line 32, strike "RESTRICTS" and substitute "RESTRICT".
- 4) On page 1, line 37, after "software", insert "or services".
- 5) On page 1, line 38, strike "enables" and substitute "enable".
- 5) On page 1, line 43, after "software", insert "or services".
- 6) On page 1, line 54, after "software", insert "or service".

The amendment was read and was adopted by a viva voce vote.

HB 1300 as amended was passed to third reading by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1300 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1300** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

HB 1300 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a group of first-grade students from Patlan Elementary School of Seguin and their teacher Pat Kibbe.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Brown was recognized and introduced to the Senate Emiko Yoshida, Toshiya Kawase, Naoko Watanabe, Chicko Sawanobori, and Tsunesaburo Terado of the Rotary Group Study Exchange from Japan and their escort Dr. Tyler Baker of Lake Jackson.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 1107 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1107, Relating to the provision of financial assistance to survivors of certain law enforcement officers, firefighters, and others.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Gallegos asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1107 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1107** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Gallegos.

CSSB 1107 was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

GUESTS PRESENTED

Senator Galloway was recognized and introduced to the Senate a group of eighth-grade gifted and talented students from Hamshire Fannett School and their teacher Nettie Stone.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

Wednesday, April 23, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 210, Designating April 23, 1997, as Washington County Day.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

(President in Chair)

SENATE BILL 1776 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1776, Relating to the exemption of certain employees from the payment of student fees by the governing board of an institution of higher education.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1776 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1776** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1776 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 881 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 881, Relating to the denial of the renewal of the driver's license of persons who violate their promise to appear on certain offenses or who fail to pay the fine for certain offenses.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 881 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 881** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 881 was read third time and was passed by a viva voce vote.

SENATE BILL 1347 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1347, Relating to certain permitted duties of dental assistants.

The bill was read second time.

Senator Madla offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1347** by adding a new **SECTION 1** (introduced version page 1, line 3) as follows and renumbering the existing sections accordingly:

SECTION 1. Section 15, Chapter 475, Acts of the 52nd Legislature, 1951 (Article 4551e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. EXCEPTIONS. The provisions of this Act shall not apply to: (1) dentists duly licensed and authorized to practice dentistry within this state and who are actively engaged in such practice except as provided in Section 3 of this Act; (2) physicians and surgeons legally authorized to practice medicine as defined by the law of this state; or (3) employees of a dentist who make dental x-rays or who polish the coronal surfaces of exposed human teeth in the dental office and under the supervision of such dentist or dentists legally engaged in the practice of dentistry in this state.

The committee amendment was read and was adopted by a viva voce vote.

SB 1347 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1347 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1347** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1347 was read third time and was passed by a viva voce vote.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate a group of students from the First Baptist Church School of Beeville and their teachers Julie Marticek and Lisa Latcham.

Senator Zaffirini also introduced to the Senate a group of seniors from Poteet High School and their teachers Butch Tudyk, Lollie Randle, Barbara Shelton, and Ben Hivley.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE

SENATE BILL 1111 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1111, Relating to the investment authority of certain insurers.

The bill was read second time and was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 1111 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1111** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1111 was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1277 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1277, Relating to powers and duties of emergency services districts.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1277** as follows:

(1) On page 2, line 53 of the committee printing, delete SECTION 4, to line 65.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 1.

CSSB 1277 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1277 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1277** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Brown.

CSSB 1277 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Brown asked to be recorded as "Present-not voting" on the final passage of the bill.

SENATE BILL 26 ON SECOND READING

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 26, Relating to the Town Center Improvement District of Montgomery County, Texas; authorizing a tax and granting the authority to issue bonds.

The bill was read second time.

Senator Galloway offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 26** as follows:

In SECTION (4) of the bill, delete Sec. 7(3) and insert the following new Sec. 7(3):

(3) add or exclude territory in the manner provided by Subchapter J, Chapter 49, Water Code, and section 54.016, except that section 42.042, Local Government Code, and section 54.016, Water Code, shall not apply to the annexation of land restricted primarily to commercial or business use.

The committee amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Ogden asked to be recorded as voting "Nay" on the adoption of Committee Amendment No. 1.

SB 26 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Ogden asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 26 ON THIRD READING

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 26** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Ogden.

SB 26 was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 1292 ON SECOND READING

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1292, Relating to the licensing of agents for the sale of credit insurance.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1292 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1292** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 1292 was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Armbrister in Chair)

SENATE BILL 1234 ON SECOND READING

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1234, Relating to licensure of certain publicly funded providers of home and community support services; providing administrative penalties.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Duncan asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1234 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1234** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Duncan.

SB 1234 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Duncan asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 70 ON SECOND READING**

Senator Haywood asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 70, Relating to the eligibility of substitute teachers for unemployment compensation benefits.

There was objection.

Senator Haywood then moved to suspend the regular order of business and take up **CSSB 70** for consideration at this time.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Armbrister, Bivins, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Patterson, Ratliff, Shapiro, Sibley, Wentworth, Zaffirini.

Nays: Barrientos, Cain, Ellis, Gallegos, Luna, Moncrief, Shapleigh, Truan, West, Whitmire.

Absent: Brown.

(President in Chair)

CSSB 70 was read second time and was passed to engrossment by the following vote: Yeas 20, Nays 10. (Same as previous roll call)

RECESS

On motion of Senator Shapiro, the Senate at 11:56 a.m. recessed until 12:45 p.m. today.

AFTER RECESS

The Senate met at 12:45 p.m. and was called to order by Senator Armbrister.

**COMMITTEE SUBSTITUTE
SENATE BILL 975 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 975, Relating to the disclosure of health care information by certain health care providers.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 975**, committee printing on page 2, lines 2 and 3 by striking subsection (2), and renumbering the remaining subsections accordingly.

The amendment was read and was adopted by a viva voce vote.

CSSB 975 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 975 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 975** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 975 was read third time and was passed by a viva voce vote.

SENATE BILL 1414 ON SECOND READING

On motion of Senator Luna and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1414, Relating to grants made by the commissioner of education to certain school districts.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1414 ON THIRD READING

Senator Luna moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1414** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1414 was read third time and was passed by a viva voce vote.

SENATE BILL 1923 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1923, Relating to use of state funds for certain investments.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1923 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1923** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SB 1923 was read third time and was passed by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 1915 ON SECOND READING

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1915, Relating to the regulation of utilities.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1915** as follows:

(1) In SECTION 1, Section 1.034, Public Utility Regulatory Act of 1995 (page 1, line 28), between "not" and "confidential", strike "made" and insert "considered to be".

(2) In SECTION 1, Section 1.034, Public Utility Regulatory Act of 1995 (page 1, line 29), strike "statute or court" and substitute "law, whether constitutional, statutory, or by judicial".

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 1.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1915** as follows:

On page 1, line 35, add the following new SECTION 2 and renumber the subsequent sections appropriately:

SECTION 2. Section 3.211, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by adding Subsection (k) to read as follows:

(k) Notwithstanding any other law, including Subtitles H and I of this title, if the assessment imposed under Section 3.606 of this Act is increased by an Act of the 75th Legislature, Regular Session, 1997, the commission may permit a public utility to recover exclusively from its retail customers the amount of the increase. In considering a request for this recovery, the commission shall consider only whether the recovery is equitable in the applicable circumstances and the proper computation of the amount under Subtitle H or I of this title. Section 3.354 of this Act applies to the rate adjustment procedure.

The amendment was read and was adopted by the following vote: Yeas 21, Nays 8, Present-not voting 1.

Yeas: Barrientos, Brown, Cain, Carona, Duncan, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Luna, Madla, Nixon, Patterson, Ratliff, Sibley, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Fraser, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Truan.

Present-not voting: Armbrister.

Absent: Ellis.

Senator Nixon offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1915** as follows:

(1) Insert the following appropriately numbered sections and renumber the subsequently numbered sections accordingly:

"SECTION ____ . Section 3.002, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by adding Subdivision (13) to read as follows:

(13) "Rural telephone company" means an incumbent local exchange company that meets one or more of the following requirements:

(A) the company provides local exchange telephone service to a certificated service area that does not include:

(i) a municipality with a population of more than 10,000, as determined by the most recent statistics of the United States Bureau of the Census; or

(ii) any area, whether or not incorporated, included within an area that as of August 10, 1993, was an urbanized area as determined by the United States Bureau of the Census;

(B) the company provides local exchange telephone service, including exchange access, to fewer than 50,000 access lines in the state;

(C) the company provides local exchange telephone service to a study area with fewer than 100,000 access lines; or

(D) as of February 28, 1996, less than 15 percent of the company's access lines were located in municipalities with a population of more than 50,000."

"SECTION ____ . Subtitle E, Title III, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by adding Section 3.2133 to read as follows:

Sec. 3.2133. RURAL TELEPHONE COMPANIES. To better conform state and federal regulation of incumbent local exchange companies, and subject to such duties as the Commission may determine are appropriate under 47 U.S.C. Sections 251(a), (b) and (c), the commission shall permit a rural telephone company not otherwise exempt from interconnection obligations under state law to apply for the exemptions to and suspensions and modifications of the duties as provided by 47 U.S.C. Section 251(f)."

(2) In SECTION 4, Section 3.608, Public Utility Regulatory Act of 1995 (page 3, line 28), add the following new subsection to read as follows:

"(g) For the purposes of applying rules and otherwise administering this section, the commission shall treat a rural telephone company, having fewer than 100,000 access lines as of January 1, 1997, in the same manner it treats an incumbent local exchange company serving fewer than 31,000 access lines in this state or a telephone cooperative corporation."

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 3.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 4

Amend CSSB 1915 by adding a new SECTION 8. and renumbering subsequent sections:

SECTION 8. Subtitle K, Title I, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes), is amended by adding Section 1.408 to read as follows:

Sec. 1.408. REFUNDS FOR OVER-BILLING. The Commission by rule shall require a public utility that charges a customer more than the lawful rate for the service being purchased by the customer to refund the overcharged amount by an adjustment made for the entire period of the overcharges.

The amendment was read and was adopted by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the adoption of Floor Amendment No. 4.

CSSB 1915 as amended was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1915 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1915** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Armbrister.

CSSB 1915 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Armbrister asked to be recorded as "Present-not voting" on the final passage of the bill.

**COMMITTEE SUBSTITUTE
SENATE BILL 921 ON SECOND READING**

On motion of Senator Galloway and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 921, Relating to the creation of the East Montgomery County Improvement District; authorizing a tax.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 921 ON THIRD READING**

Senator Galloway moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 921** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

CSSB 921 was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 388 WITH HOUSE AMENDMENT

Senator Whitmire called **SB 388** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 on Third Reading

Amend **SB 388** on third reading in Section 777.010(a), Health and Safety Code, as added by SECTION 3 of the bill, strike "The" before "Texas Department of Health" and substitute "On approval by and in coordination with the governor, the".

The amendment was read.

On motion of Senator Whitmire, the Senate concurred in the House amendment to **SB 388** by a viva voce vote.

SENATE JOINT RESOLUTION 36 WITH HOUSE AMENDMENT

Senator Duncan called **SJR 36** from the President's table for consideration of the House amendment to the resolution.

The Presiding Officer laid the resolution and the House amendment before the Senate.

Amendment No. 1

Amend **SJR 36** as follows:

- (1) On page 1, line 9, strike "Municipal Court Judge."
- (2) On page 2, line 14, after the period, insert "A person may hold the position of Municipal Court Judge in more than one municipality"

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SJR 36**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 886 WITH HOUSE AMENDMENT

Senator Ratliff called **SB 886** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 886** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to making emergency appropriations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$18,681,494, consisting of federal funds from the Temporary Assistance for Needy Families block grant, is appropriated to the Department of Protective and Regulatory Services for the two-year period beginning on the effective date of this Act. Amounts appropriated by this section shall be used by the department to adjust the method of financing among its various programs to provide sufficient funding for substitute care services.

SECTION 2. TEXAS WORKFORCE COMMISSION: JOBS PROGRAM. In addition to amounts previously appropriated for the current fiscal

biennium, the sum of \$5,106,092, consisting of federal funds from the Temporary Assistance for Needy Families block grant, is appropriated to the Texas Workforce Commission for the two-year period beginning on the effective date of this Act for the purpose of providing services in the Job Opportunities and Basic Skills (JOBS) program and related transportation expenses of program participants.

SECTION 3. TEXAS YOUTH COMMISSION. In addition to amounts previously appropriated for the current fiscal biennium, the sums of \$4,998,517 out of the general revenue fund, \$5,052,187 from amounts received from the federal government, and \$116,716 from receipts generated by interagency contracts are appropriated to the Texas Youth Commission for the two-year period beginning on the effective date of this Act. The appropriations made by this section are for the payment of unanticipated costs for agency operations and contracted services resulting from maintaining the "Six-Month Minimum Length of Stay Rate" objective established by Chapter 1063, Acts of the 74th Legislature, Regular Session, 1995 (the General Appropriations Act), during a period of increased juvenile commitments.

SECTION 4. EMPLOYEES RETIREMENT SYSTEM OF TEXAS AND COMPTROLLER: EMPLOYEE BENEFIT COSTS. In addition to amounts previously appropriated for the current fiscal biennium, the sums of \$2,444,769, consisting of federal funds from the Temporary Assistance for Needy Families block grant, and \$343,979 from state funds in the general revenue fund are appropriated to the Employees Retirement System of Texas, and the sums of \$1,143,864, consisting of federal funds from the Temporary Assistance for Needy Families block grant, and \$149,854 from state funds in the general revenue fund are appropriated to the comptroller. The appropriations made by this section are for the two-year period beginning on the effective date of this Act for the payment of employee benefit costs associated with the implementation of the appropriations made by Sections 1, 2, and 3 of this Act.

SECTION 5. EDWARDS AQUIFER AUTHORITY. (a) The legislature finds that a contract between the Texas Water Development Board and the Edwards Aquifer Authority providing resources for the authority's initial operating costs would be in furtherance of the purposes of Section 16.019, Water Code.

(b) From amounts previously appropriated for the trustee programs within the office of the governor for the biennium ending August 31, 1997, the sum of \$500,000 is transferred and appropriated to the Texas Water Development Board for the two-year period beginning on the effective date of this Act for the purpose of funding a contract between the board and the Edwards Aquifer Authority.

(c) Amounts appropriated by Subsection (b) of this section may be expended only for payments under a contract that provides for the repayment to the general revenue fund by the Edwards Aquifer Authority of the amounts with interest, computed at a rate equal to the rate of return the amounts would have earned in the state treasury, not later than August 31, 1999.

(d) Amounts repaid to the general revenue fund in accordance with Subsection (c) of this section that constitute a repayment of the principal amount of the contract are appropriated to the office of the governor for the trustee programs within that office, for the period beginning on the date of repayment and ending on the earlier of August 31, 1999, or the expiration of two years beginning on the date of repayment. The amount of the appropriation made by this subsection may not exceed \$500,000 and shall be credited to the appropriation item from which amounts were transferred under Subsection (b) of this section.

SECTION 6. DEPARTMENT OF INFORMATION RESOURCES.

(a) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$992,000 is appropriated out of the general revenue fund to the Department of Information Resources for the two-year period beginning on the effective date of this Act for the purpose of developing and implementing a plan to make the state's information resource systems compatible with the year 2000.

(b) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$253,000 is appropriated out of the general revenue fund to the Department of Information Resources for the two-year period beginning on the effective date of this Act for the purpose of funding the operations of the office at the department developing and implementing the plan for which an appropriation is made by Subsection (a) of this section.

SECTION 7. TEXAS NATURAL RESOURCE CONSERVATION COMMISSION. (a) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$550,000 is appropriated out of the general revenue fund to the Texas Natural Resource Conservation Commission for the two-year period beginning on the effective date of this Act.

(b) Amounts appropriated by Subsection (a) of this section may be expended only for the purpose of financing regional precipitation enhancement programs through grants to political subdivisions that agree to provide local funding for the same purposes in an amount not less than the amount of state funding provided to that political subdivision.

SECTION 8. WORKERS' COMPENSATION PAYMENTS. In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$10,827,069 is appropriated out of the general revenue fund to the office of the attorney general for the two-year period beginning on the effective date of this Act for the payment of workers' compensation benefits.

SECTION 9. TELECOMMUNICATIONS INFRASTRUCTURE FUND BOARD. Notwithstanding Section 160, Article IX, Chapter 1063, Acts of the 74th Legislature, Regular Session, 1995 (the General Appropriations Act), the Telecommunications Infrastructure Fund Board is authorized to pay the salaries, out of funds previously appropriated and approved, of not more than 18 full-time equivalent employees during the current fiscal biennium.

SECTION 10. TEXAS DEPARTMENT OF TRANSPORTATION. (a) If Senate Bill No. 1706 is enacted by the 75th Legislature at its regular session and becomes law, in furtherance of Subchapter D, Chapter 456, Transportation Code, as added by that Act, the sum of \$5,600,000 is

appropriated out of the general revenue fund to the Texas Department of Transportation for the two-year period beginning on the later of the effective date of this Act or the effective date of Senate Bill No. 1706 for the purpose of providing a loan to a corporation created under former Subchapter III, Chapter 14, Title 45, United States Code (now 49 U.S.C. Sections 24101 et seq. and 24301 et seq.).

(b) Amounts appropriated by Subsection (a) of this section may be expended only for the purpose of funding payments under a loan agreement that provides for the repayment of the amounts to the general revenue fund with interest, computed at a rate equal to the rate of return the amounts would have earned in the state treasury, not later than August 31, 1999.

SECTION 11. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Ratliff moved to concur in the House amendment to **SB 886**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

NOTICE GIVEN FOR LOCAL AND UNCONTESTED CALENDAR

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held upon conclusion of the daily session tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 2:06 p.m. agreed to adjourn, upon completion of the introduction of bills and resolutions on first reading, until 10:00 a.m. tomorrow.

(Senator Zaffirini in Chair)

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read first time and referred to the committees indicated:

HB 2138 to Committee on International Relations, Trade, and Technology.

HB 2141 to Committee on Intergovernmental Relations.

HB 2145 to Committee on Jurisprudence.

HB 2146 to Committee on Education.

HB 2156 to Committee on Jurisprudence.

HB 2159 to Committee on Finance.
HB 2185 to Committee on Intergovernmental Relations.
HB 2193 to Committee on Economic Development.
HB 2220 to Committee on State Affairs.
HB 2252 to Committee on Finance.
HB 2271 to Committee on Jurisprudence.
HB 2286 to Committee on Intergovernmental Relations.
HB 2327 to Committee on Economic Development.
HB 2348 to Committee on Intergovernmental Relations.
HB 2353 to Committee on State Affairs.
HB 2424 to Committee on State Affairs.
HB 2492 to Committee on Intergovernmental Relations.
HB 2499 to Committee on Natural Resources, Subcommittee on Agriculture.
HB 2509 to Committee on Health and Human Services.
HB 2555 to Committee on Jurisprudence.
HB 2563 to Committee on Natural Resources.
HB 2569 to Committee on International Relations, Trade, and Technology.
HB 2601 to Committee on Health and Human Services.
HB 2688 to Committee on Natural Resources.
HB 2689 to Committee on Natural Resources.
HB 2696 to Committee on Intergovernmental Relations.
HB 2721 to Committee on Education.
HB 2769 to Committee on Intergovernmental Relations.
HB 2779 to Committee on Jurisprudence.
HB 2826 to Committee on Criminal Justice.
HB 2832 to Committee on Intergovernmental Relations.
HB 2920 to Committee on Intergovernmental Relations.
HB 2964 to Committee on Intergovernmental Relations.
HB 3025 to Committee on Intergovernmental Relations.
HB 3043 to Committee on Intergovernmental Relations.
HB 3065 to Committee on Natural Resources.
HB 3116 to Committee on Health and Human Services.
HB 3125 to Committee on Education.
HB 3159 to Committee on State Affairs.
HB 3197 to Committee on Economic Development.
HB 3203 to Committee on Finance.
HB 3252 to Committee on State Affairs.
HB 3279 to Committee on Economic Development.
HB 3478 to Committee on International Relations, Trade, and Technology.
HB 3507 to Committee on Jurisprudence.
HB 3541 to Committee on Jurisprudence.
HB 3547 to Committee on Natural Resources.
HCR 44 to Committee on Health and Human Services.

CONGRATULATORY RESOLUTIONS

SCR 76 - by Barrientos: Congratulating the First Baptist Church of Austin.

SR 549 - by Bivins: Congratulating the United Way of Midland.

SR 550 - by Moncrief: Congratulating Assistant District Attorney Terri Moore of Tarrant County.

SR 551 - by West: Commemorating the El Dia del Nino festival in Dallas.

SR 552 - by Fraser: Congratulating Tanya Dockery of Fort Hood.

SR 553 - by Fraser: Congratulating Justin William Lefever of Big Spring.

SR 554 - by Fraser: Congratulating Ryan Weckel of Copperas Cove.

SR 555 - by Fraser: Congratulating Harold Phillips of Coleman.

SR 556 - by Fraser: Congratulating David C. Hughling of Killeen.

SR 557 - by Fraser: Congratulating Tawana Burton.

SR 558 - by Fraser: Congratulating Mark P. Tapley of Killeen.

SR 559 - by Ellis: Congratulating Melissa and Rick Noriega of Houston on the birth of their son Richard Joel Noriega, Jr.

SR 560 - by Ellis: Congratulating the Honorable Leonard H. O. Spearman, Sr., of Houston.

SR 561 - by Ellis: Congratulating Richard Ferlauto of the AFL-CIO.

SR 562 - by Ellis: Congratulating Tara Lipinski of Sugar Land.

SR 563 - by Ellis: Commending the National Association of Yoruba Descendants.

SR 564 - by Barrientos: Congratulating John E. Matysek, principal of Westlake High School.

SR 565 - by Barrientos: Congratulating the Westlake High School Chaparrals football team.

SR 566 - by Barrientos: Commending the Texas Law Enforcement Intelligence Units Association.

SR 567 - by Nelson: Congratulating the Texas Nameplate Company in Dallas.

SR 568 - by Cain: Congratulating Gilbert Turrieta of Austin.

SR 573 - by Bivins: Congratulating the Odyssey of the Mind teams from Dimmitt.

MISCELLANEOUS RESOLUTION

HCR 210 - (Ogden): Designating April 23, 1997, as Washington County Day.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 2:10 p.m. adjourned, in memory of Jim Davis of Amarillo, until 10:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 23, 1997

CRIMINAL JUSTICE — SB 50, SB 1886

JURISPRUDENCE — HB 243, HB 591, HB 786, HB 791, HB 1092, HB 1040, HB 1152, HB 1403, SB 24, SB 732, SB 1119, CSSB 1383, SB 1604, CSSB 1678

COMMITTEE OF THE WHOLE SENATE ON LEGISLATIVE AND CONGRESSIONAL REDISTRICTING — CSSB 714 (Ordered Not Printed), SB 715 (Amended, Ordered Not Printed)

STATE AFFAIRS — SB 602 (Amended)

SENT TO GOVERNOR

April 23, 1997

SB 192, SB 251, SB 407, SB 454, SB 463, SB 544, SB 797, SB 872, SB 974, SB 1083, SB 1173, SCR 73

